

SUBTITLE L

EXECUTIVE COMMISSION ON ETHICAL STANDARDS

CHAPTER 61

EXECUTIVE COMMISSION ON
ETHICAL STANDARDS

Authority

N.J.S.A. 52:13D-21.

Source and Effective Date

R.1997 d.88, effective January 24, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Executive Order No. 66(1978) Expiration Date

Chapter 61, Executive Commission on Ethical Standards, expires on
January 24, 2002.

Chapter Historical Note

Chapter 61, Executive Commission on Ethical Standards, was originally adopted as an exempt, procedural rule by R.1972 d.32, effective February 18, 1972, and codified at N.J.A.C. 1:1 through 1:5. See: 4 N.J.R. 55(a). An amendment regarding the filing of advisory opinions and disciplinary actions with the Division of Administrative Procedure was adopted as R.1972 d.57, effective March 15, 1972, and codified at N.J.A.C. 19:20-5.2, with all Commission rules to be codified at N.J.A.C. 19:20. See: 4 N.J.R. 79(d). N.J.A.C. 19:20 was recodified to N.J.A.C. 19:61 by an administrative change, effective January 3, 1984. See: 16 N.J.R. 56(c). Pursuant to Executive Order No. 66(1978), Chapter 61 expired on July 7, 1991.

Chapter 61, Executive Commission on Ethical Standards, was adopted as R.1992 d.97, effective March 2, 1992. See: 23 N.J.R. 3436(b), 24 N.J.R. 864(a). Subchapter 6, Attendance at Events, Acceptance of Honoraria, and Acceptance of Compensation for Published Works, was adopted as R.1995 d.108, effective February 21, 1995. See: 26 N.J.R. 4757(a), 27 N.J.R. 763(a).

Pursuant to Executive Order No. 66(1978), Chapter 61 was readopted as R.1997 d.88, effective January 24, 1997. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ORGANIZATION

- 19:61-1.1 Scope of rules
- 19:61-1.2 Meetings and offices
- 19:61-1.3 Presiding member
- 19:61-1.4 Quorum
- 19:61-1.5 Executive or open meetings
- 19:61-1.6 Majority vote
- 19:61-1.7 Conflict with agency rules
- 19:61-1.8 Enlargement of time
- 19:61-1.9 Administrative head
- 19:61-1.10 Definitions

SUBCHAPTER 2. JURISDICTION

- 19:61-2.1 Jurisdiction of the Commission
- 19:61-2.2 Agency codes of ethics
- 19:61-2.3 Procedure where Commission is without jurisdiction
- 19:61-2.4 Access to documents
- 19:61-2.5 Copies of documents; fees

SUBCHAPTER 3. PROCEEDINGS

- 19:61-3.1 Allegations; procedure
- 19:61-3.2 Subpoena for witnesses
- 19:61-3.3 Allegation by member of Commission
- 19:61-3.4 Allegation before State agency
- 19:61-3.5 Determination by State agency
- 19:61-3.6 Relaxation of rules

SUBCHAPTER 4. ADVISORY OPINIONS

- 19:61-4.1 Requests for advisory opinions

SUBCHAPTER 5. GENERAL PROVISIONS

- 19:61-5.1 Investigations and hearings
- 19:61-5.2 Publication
- 19:61-5.3 Validity of rules of any portion declared invalid
- 19:61-5.4 Procedures to request Commission action to promulgate, amend or repeal rules
- 19:61-5.5 Positions in State government with responsibility for matters affecting casino activity

SUBCHAPTER 6. ATTENDANCE AT EVENTS,
ACCEPTANCE OF HONORARIA, ANDACCEPTANCE OF COMPENSATION FOR PUBLISHED
WORKS

- 19:61-6.1 Applicability
- 19:61-6.2 Definitions
- 19:61-6.3 Granting of approval
- 19:61-6.4 Attendance at an event sponsored by an interested party
- 19:61-6.5 Attendance at an event sponsored by an entity other than an interested party
- 19:61-6.6 Use of official title for private fundraising
- 19:61-6.7 Compensation for published work(s)
- 19:61-6.8 Sample approval request form

SUBCHAPTER 1. ORGANIZATION

19:61-1.1 Scope of rules

The rules in this chapter shall constitute the practices and procedures of the Executive Commission on Ethical Standards and shall govern all activities of the Commission pursuant to N.J.S.A. 52:13D-12 et seq.

19:61-1.2 Meetings and offices

The Commission shall meet at the call of its Chair upon not less than three days notice to members thereof. The Commission may maintain offices in such place or places as it may deem advisable.

Amended by R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

19:61-1.3 Presiding member

The Chair shall preside, but in case of absence or inability to serve, the Vice Chair shall temporarily preside in his or her stead. In the absence of both, the senior member attending shall preside. Seniority of the members of the Commission shall be determined by the order of their respective appointments to the Commission.

Amended by R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

19:61-1.4 Quorum

Four members of the Commission shall constitute a quorum. If a quorum does not attend a session of the Commission, the presiding member may adjourn the Commission, or, in the absence of all the members, the Executive Director or his or her designee may adjourn the Commission from day to day.

19:61-1.5 Executive or open meetings

Meetings of the Commission, including open and executive sessions, shall be conducted in compliance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.

19:61-1.6 Majority vote

No determination of the Commission shall be rendered unless supported by the vote of members constituting a majority of the quorum present. Minutes of Commission meetings may be approved by a majority of eligible members. A member is eligible to vote on minutes of meetings that he or she attended.

19:61-1.7 Conflict with agency rules

Any conflict between the rules established by the Commission and those developed by the various State agencies to implement their respective Codes of Ethics shall be resolved in favor of the rules established by the Commission.

19:61-1.8 Enlargement of time

A reasonable extension of time for the taking of any action for which these rules prescribe a time limitation may be granted by the Commission upon a clear showing of good cause and the absence of prejudice.

19:61-1.9 Administrative head

The Commission may appoint an Executive Director who shall serve as the administrative head of the Commission. In the absence of an administrative head, the Chair may designate an individual to serve as acting administrative head.

Amended by R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

19:61-1.10 Definitions

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Chair" and "Vice Chair" shall mean the member of the Executive Commission on Ethical Standards designated by the Governor to serve as the Chair and Vice Chair thereof.

"Commission" shall mean the Executive Commission on Ethical Standards continued and established in the Department of Law and Public Safety by the provisions of N.J.S.A. 52:13D-12 et seq.

"Preliminary investigation" means the investigative process undertaken by the Commission and/or its staff and/or a departmental ethics liaison officer or departmental ethics committee with regard to an allegation prior to review of and final action on the allegation by the Commission at a public meeting, pursuant to either N.J.A.C. 19:61-3.1(h) or (i).

Amended by R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Added "Chair"; deleted "Chairman"; and amended "Commission" and "Preliminary investigation".

SUBCHAPTER 2. JURISDICTION**19:61-2.1 Jurisdiction of the Commission**

(a) The jurisdiction of the Commission shall extend to those situations arising under the provisions of N.J.S.A. 52:13D-12 et seq., involving State officers and employees, and special State officers and employees of the Executive Branch of the government, and as granted under the provisions of Executive Orders and any other statutes; and the Commission shall also have jurisdiction to enforce the provisions of N.J.S.A. 5:12-58, 59, and 60.

(b) All determinations made by State agencies with regard to the Conflicts of Interest Law or a Code of Ethics shall be filed with the Commission. It shall be within the discretion of the Commission to review said determinations and affirm, reverse or modify same.

Amended by R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

In (a), added text "and any other statutes... N.J.S.A. 5:12-58, 59, and 60".

19:61-2.2 Agency codes of ethics

(a) State agencies shall include in their Codes of Ethics a requirement that employees annually disclose outside employment and/or business interests. The disclosure procedure shall be formulated by each agency with respect to its particular needs and problems. For example, an agency may find it administratively efficient to exempt disclosure of specific kinds of outside employment (for example, part-time work for businesses not related to the position of employment in the agency).

Examples

As part of his official duties, a Department of Transportation employee evaluates surveying equipment and trains Department employees on its use. The employee recently completed an in-depth evaluation of ten different types of surveying instruments and made a recommendation to the purchasing unit. The employee would like to publish the entire report in Transportation Magazine. He has been offered \$500 for the article. The Department must make a policy decision as to whether the article may be published. The employee is prohibited from accepting compensation for the article, even if the Department grants permission for the publication, since it was created as part of his official duties prepared on State time and utilizing State resources.

An Environmental Technician at the Department of Environmental Protection has been asked to write an article for an environmental journal on how New Jersey's automobile emission standards differ from those of Pennsylvania. He has been offered \$500 for the article. The Environmental Technician is permitted to publish the article and receive compensation since it is on a subject matter related to, but not a part of, his official duties, so long as he prepares the article at home, on his own time, without using any State resources.

Recodified from 19:61-6.6 and amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Substantially amended (b)1 and (b)2; and recodified (b)3 and (b)4 as (c) and (d). Former section recodified to N.J.A.C. 19:61-6.8.

19:61-6.8 Sample approval request form

(a) The following form, or one containing substantially similar elements, may be used to request approval to attend events, accept honoraria, and/or accept compensation for published works.

REQUEST FOR APPROVAL FOR ATTENDANCE AT EVENT

DEPARTMENT OF _____

Name _____ Division _____

Title _____ Telephone _____ FAX _____

Event _____

Sponsor _____

Is the sponsor an "interested party"? Yes ___ No ___

Location _____ Date(s) _____

Overnight accommodation required? Yes ___ No ___

Out-of-state travel required? Yes ___ No ___

Estimated Cost? \$ _____

Agency to pay cost? Yes ___ No ___

Sponsor to pay cost? Yes ___ No ___

Employee to pay cost? Yes ___ No ___

Reason for attendance: _____

Will sponsor offer an honorarium or fee? Yes ___ No ___

Amount of honorarium \$ _____

Employee Signature _____ Date _____

NOTE: Any substitutions or changes of circumstances must be reported.

Attendance approved Yes ___ No ___

Acceptance of honorarium approved Yes ___ No ___

Conditions: _____

Employee Signature _____ Date _____

Recodified from 19:61-6.7 and amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Added the "Note" relating to substitutions or changes to the request form.